

REMARKS

Claims 2-12 are pending. The Examiner has withdrawn Claims 6-10 from consideration for being drawn to a non-elected invention. By this Preliminary Amendment, Claim 2 is amended and Claims 11-12 added. No new matter is presented.

Personal Interview

Applicants respectfully appreciate and acknowledge the courtesies extended to Applicants' representative by the Examiner during the personal interview conducted October 21, 2004. The points discussed during the interview are incorporated herein.

Claims Recite Patentable Subject Matter

Claims 1-5 and 11-12 are believed to be patentable over U.S. Patent No. 6,372,375 to Lawless for the following reasons. Claim 2 recites a fuel cell including, among other features, fuel and oxidizing gas passages, which extend in the axial direction of the tubular casing, each having a non-uniform diameter. As pointed out during the interview and explained in paragraphs [0039-0040] of the application, the structure of the claimed invention the non-uniform diameter of the fuel and oxidizing gas passages produce turbulence that promote electrochemical reactions. Lawless, which discloses gas passages having uniform diameters, cannot produce such turbulence and requires a turbulence inducing insert 25 be inserted into the passages to achieve the same effect and benefits. As such, Applicants respectfully submit Lawless does not disclose or suggest each and every feature recited by pending Claim 2. Therefore, Lawless does not anticipate or render obvious the invention recited by pending Claim 2.

Accordingly, Applicants respectfully submit Claim 2 should be deemed allowable over Lawless.

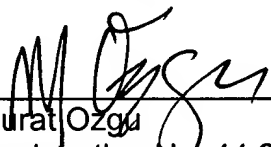
Claims 3-5 and 11-12 depend from Claim 2. It is respectfully submitted that these five (5) dependent claims should be deemed allowable for the same reasons as Claim 2, as well as for the additional subject matter recited therein.

The above amendments to the specification and claims have been made in order to more particularly point out and distinctly claim the invention of the subject application.

Favorable consideration on the merits is respectfully requested.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing docket number 101213-00009.**

Respectfully submitted,



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